

REMARKS

I. Introduction

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claims 1-26, 27-43, 46-47, and 58-62 have been canceled. The cancellation of claims does not constitute acquiescence in the propriety of any rejection set forth by the Examiner. Applicants reserve the right to pursue the subject matter of the canceled claims in subsequent divisional applications.

Claims 44, 55-57, 63, and 66 are currently amended.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

Upon entry of this Amendment, claims 44, 45, 48-57 and 63-68 will remain pending in the application.

Because the foregoing amendments do not introduce new matter, entry thereof by the Examiner is respectfully requested.

II. Response to Issues Raised by Examiner in Outstanding Office Action

a. Claim Rejections - 3 U.S.C. § 112, Second Paragraph

Claims 55 and 57 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Office asserts that it is unclear how *M. tuberculosis* induces some of the listed diseases, e.g., leprosy. Applicants have amended the claims to methods regarding tuberculosis and request reconsideration of this rejection.

Claims 56 and 57 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention. The Office asserts that it is unclear how the method of claims 56 and 57 could detect compositions other than nucleic acid.. Office Action, p. 4. Applicants have amended claim 56 to recite the detection of polynucleotides encoding *M. tuberculosis* and request reconsideration of this rejection.

Claims 51-54 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite because they depend from rejected claims. Office Action, p. 4. Applicants have amended claim 44 and believe claims 52-54 are now dependent from an allowable claim. Since claim 51 is an independent claim, Applicants believe a typographical error may have occurred in the office action. Applicants request clarification of this rejection.

b. Claim Rejections - 35 U.S.C. § 101

Claims 44, 45, 48-50 and 63-68 are rejected under 35 U.S.C. § 101 because the claimed invention is allegedly directed to non-statutory subject matter. The Office asserts that the claims read on naturally occurring subject matter because there is no recitation of isolation or purification. Office Action, p. 3. Applicants have amended the claims to recite an isolated or purified nucleic acid molecule. Applicant respectfully requests reconsideration and withdrawal of the rejection.

CONCLUSION

The present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant(s) hereby petition(s) for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date

June 22, 2004

FOLEY & LARDNER LLP

Customer Number:

22428

PATENT TRADEMARK OFFICE

Telephone: (202) 672-5483

Facsimile: (202) 672-5399

By

Richard C. Peet

Richard C. Peet

Attorney for Applicant

Registration No.: 35,792